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Apart from the weight of the declaration, the claims are patentable for two further reasons. First, the latest edition of MPEP §2136.03(III) (May, 2004) now makes explicit that an examiner can accord a reference a provisional filing date only to the extent that the underlying provisional application supports the relied-upon disclosure. This case illustrates the importance of following the rules, because, taking just the sections of Ripley relied on in the anticipation rejection, paragraphs 19 and 24 do not appear in the copy of the provisional application kindly provided by the Patent Office. They were added to the disclosure when Ripley (the publication, not the provisional) was filed, after the present filing date. The same is true of paragraphs 80, 81, 90, and 109. For instance, paragraphs 80 and 81 discuss figures 7A-7D, which appear to be figure 8 of the provisional, but no text in the provisional discusses figure 8 beyond a perfunctory observation that it is a flow chart. The textual substance of relied-upon paragraphs 80 and 81 thus does not appear in the provisional.

Should the rejections be persisted in despite the overwhelming weight of the defects in the *prima facie* case noted above, Applicant will continue to argue the substantive points raised in the last response, confident that the Board will accord a reasoned analysis of the relied-upon references more weight than the examiner has thus far.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

1003-109.AM2

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Respectfully submitted,



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